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Part 2

NEVADA MILITARY LANDS WITHDRAWAL ACT OF 1986

JULY 28, 1986.—Ordered to be printed

Mr. ASPIN, from the Committee on Armed Services, submitted the following

REPORT

[To accompany H.R. 4351 which on March 6, 1986, was referred jointly to the Committee on Armed Services and the Committee on Interior and Insular Affairs]

The Committee on Armed Services, to whom was referred the bill (H.R. 4351) to withdraw and reserve for the Department of the Navy certain public lands within the Bravo-20 Bombing Range, Churchill County, Nevada, for use as a training and weapons testing area, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE AND DEFINITION.

(a) SHORT TITLE.—This Act may be cited as the "Nevada Military Lands Withdrawal Act of 1986".

(b) DEFINITION.—For purposes of this Act, the term "public lands" means lands owned by the United States.

SEC. 2. WITHDRAWALS.

(a) NELLIS AIR FORCE RANGE.—(1) Subject to valid existing rights, the public lands described in paragraph (2) of this subsection are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws but not the mineral leasing or geothermal leasing laws). Such lands are reserved for use by the Secretary of the Air Force—

(A) as an armament and high-hazard testing area;

(B) for training for aerial gunnery, rocketry, electronic warfare, and tactical maneuvering and air support; and

(C) for other defense-related purposes authorized by the Secretary of the Interior pursuant to this Act.

(2) The lands referred to in paragraph (1) of this subsection are the lands comprising approximately 2,945,000 acres of land in Clark, Nye, and Lincoln Counties, Nevada, as generally depicted on the map entitled "Nellis Air Force Range Withdrawal—Proposed", dated January 1985, and filed in accordance with section 3(a)(2).

(b) BRAVO-20 BOMBING RANGE.—(1) Subject to valid existing rights, the lands referred to in paragraph (2) of this subsection and all other areas within the boundary

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of such lands as depicted on the map specified in such paragraph which may become subject to the operation of the public land laws are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws but not the mineral leasing or the geothermal leasing laws). Such lands are reserved for use by the Secretary of the Navy for—

(A) testing and training for aerial bombing, missile firing, and tactical maneuvering and air support; and

(B) other defense-related purposes authorized by the Secretary of the Interior pursuant to this Act.

(2) The lands referred to in paragraph (1) of this subsection are the public lands comprising approximately 21,576.40 acres in Churchill County, Nevada, as generally depicted on the map entitled "Bravo-20 Bombing Range Withdrawal—Proposed", dated April 1986, and filed in accordance with section 3(a)(2).

(3)(A) Within that portion of the lands referred to in paragraph (1) which are depicted on the map referred to in paragraph (2) as "Security Zone" (comprising approximately 13,000 acres), there shall be no construction of roads, structures, or any other facilities or installations and no bombing or missile firing activities having an impact on the surface until at least 90 days after the date on which the Secretary of the Navy and the Secretary of the Interior transmit to the Congress and the Governor of Nevada a joint report described in subparagraph (B).

(B) The joint report referred to in subparagraph (A) shall—

(i) specify the expected uses of such "Security Zone" lands during the period of their withdrawal pursuant to section 2;

(ii) specify the roads, structures, and other facilities that are to be constructed on such lands in connection with such uses; and

(iii) set forth the evaluation of the Secretary of the Interior as to the likely impact of such uses and construction on the resources and values of such lands.

(C) Preparation of such report shall not be deemed a major Federal action for purposes of section 102(2)(C) of the National Environmental Policy Act of 1969.

SEC. 3. MAPS AND LEGAL DESCRIPTION.

(a) PUBLICATION AND LEGAL DESCRIPTION.—As soon as practicable after the date of the enactment of this Act, the Secretary of the Interior shall—

(1) publish in the Federal Register a notice of the legal description of each area withdrawn under section 2; and

(2) transmit a map and the legal description of each area withdrawn under section 2 to the Congress.

(b) PUBLIC INSPECTION.—Each such map and legal description shall be available for public inspection—

(1) in the Office of the Director of the Bureau of Land Management of the Department of the Interior;

(2) in the Office of the State Director of the Bureau of Land Management for the State in which the area withdrawn under section 2 is located;

(3) in the case of lands withdrawn under section 2(a), in the appropriate Office of the Regional Director of the Fish and Wildlife Service of the Department of the Interior; and

(4) in the office of the military commander of each area.

(c) EFFECT OF MAP AND LEGAL DESCRIPTION.—Each such map and legal description shall have the same force and effect as if included in this Act, except that the Secretary of the Interior may correct any clerical or typographical error in any such map or legal description.

(d) COSTS.—The Secretary of Defense shall reimburse the Secretary of the Interior for the cost of implementing subsection (a) of this section.

SEC. 4. MANAGEMENT OF WITHDRAWN LANDS.

(a) MANAGEMENT BY THE SECRETARY OF THE INTERIOR.—(1) During the period of the withdrawal, the Secretary of the Interior shall manage the lands withdrawn under section 2 (except those lands within the Desert National Wildlife Range) pursuant to the Federal Land Policy and Management Act of 1976 and other applicable law, including this Act. Lands within the Desert National Wildlife Range shall be managed pursuant to the National Wildlife Refuge System Administration Act of 1966 and other applicable law, including this Act.

(2) To the extent consistent with applicable law, the lands withdrawn under section 2 may be managed in a manner permitting continuation of grazing where permitted on the date of enactment of this Act, protection of wildlife and wildlife habitat, control or predatory and other animals, recreation, and the prevention and appropriate suppression of brush and range fires resulting from nonmilitary activities.

(3)(A) All nonmilitary use of such lands, other than the uses described in paragraph (2), shall be subject to such conditions and restrictions as may be necessary to permit the military use of such lands for the purposes specified in or authorized pursuant to this Act.

(B) The Secretary of the Interior may issue any lease, easement, right-of-way, or other authorization with respect to the nonmilitary use of such land only with the concurrence of the Secretary of the military department concerned.

(b) CLOSURE TO PUBLIC.—(1) If the Secretary of the military department concerned determines that military operations, public safety, or national security require the closure to public use of any road, trail, or other portion of the lands withdrawn by this Act, the Secretary may take such action as the Secretary determines necessary or desirable to effect and maintain such closure.

(2) Any closure under this subsection shall be limited to the minimum areas and periods which the Secretary of the military department concerned determines are required to carry out this subsection.

(3) Before and during any closure under this subsection, the Secretary of the military department concerned shall—

(A) Keep appropriate warning notices posted; and

(B) take appropriate steps to notify the public concerning such closures.

(c) MANAGEMENT PLAN.—The Secretary of the Interior (after consultation with the Secretary of the military department concerned) shall develop a plan for management of each area withdrawn under section 2 during the period of such withdrawal. Each plan shall—

(1) be consistent with applicable law;

(2) be subject to conditions and restrictions specified in subsection (a)(3) of this section;

(3) include such provisions as may be necessary for proper management and protection of the resources and values of such areas; and

(4) be developed not later than one year after the date of enactment of this Act.

(d) BRUSH AND RANGE FIRES.—(1) The Secretary of the military department concerned shall take necessary precautions to prevent, and shall suppress, brush and range fires occurring within and outside of the lands withdrawn under section 2 as a result of the military use of such lands.

(2) The Secretary of the military department concerned may request assistance from the Director of the Bureau of Land Management in suppressing such fire and shall reimburse, out of funds appropriated for fiscal years beginning after the date of the enactment of this Act, the Bureau of Land Management for expenses incurred in providing such assistance.

(e) MEMORANDUM OF UNDERSTANDING.—(1) The Secretary of the Interior and the Secretary of the military department concerned shall (with respect to each land area withdrawal under section 2) enter into a memorandum of understanding to implement the management plan developed under subsection (c). Any such memorandum of understanding shall provide that the Director of the Bureau of Land Management shall provide assistance in the suppression of fires resulting from the military use of the lands withdrawn under section 2 if requested by the Secretary of the military department concerned.

(2) The duration of any such memorandum shall be the same as the period of the withdrawal of the lands under section 2.

(f) SPECIAL WILDLIFE RULES FOR NELLIS AIR FORCE RANGE.—(1) Neither the withdrawal under section 2(a) nor any other provision of this Act shall be construed to amend—

(A) the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.) or any other law related to management of the National Wildlife Refuge system;

(B) any Executive order or public land order in effect on the date of the enactment of this Act with respect to the Desert National Wildlife Range; or

(C) any memorandum of understanding between the Secretary of the Interior and Secretary of the Air Force regarding the administration and joint use of a portion of the Desert National Wildlife Range.

(2) Provisions of the memorandum of understanding between the Department of the Interior and the Department of the Air Force regarding Air Force operations on the Desert National Wildlife Range in effect on March 15, 1986, shall not be amended sooner than 90 days after the Secretary of the Interior has notified the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate and the Committees on Armed

Services of the Senate and the House of Representatives of any proposed amendments to such provisions.

(g) ADDITIONAL MILITARY USES.—(1) If requested to do so by the Secretary of Defense, and upon determinations made pursuant to this subsection, the Secretary of the Interior may authorize use of the lands withdrawn by section 2 (except those within the Desert National Wildlife Range) for defense-related uses other than those specified in such section.

(2) No authorization shall be granted pursuant to paragraph (1) of this subsection unless the Secretary of the Interior has determined that—

(A) the requested use or uses will not (either alone or in combination with the uses specified in section 2) have a significant impact on the resources and values of the affected lands; and

(B) the requested use or uses will not require the imposition of additional or more stringent conditions or restrictions on otherwise permitted nonmilitary uses of the affected lands than are required to permit the uses specified in section 2.

(3) The Secretary of the Interior may waive the requirements of paragraph (2) of this subsection if the Secretary determines that authorizing a requested use or uses of lands withdrawn by section 2 will permit increased use for mining, mineral leasing, agricultural, or recreational purposes of lands in Nevada withdrawn for military purposes. A waiver may be made under this paragraph only if the Secretary of Defense enters into an agreement with the Secretary of the Interior that specific lands withdrawn for military purposes shall be made available for such additional nonmilitary purposes.

SEC. 5. DURATION OF WITHDRAWALS AND REQUIREMENTS FOR RENEWAL.

(a) DURATION.—The withdrawals under section 2 of this Act shall terminate at midnight, local time at Carson City, Nevada, on December 31, 1996, except as otherwise provided in subsection (d) of this section.

(b) IMPACT STATEMENTS.—(1) No later than January 1, 1995, the Secretary of the Air Force and the Secretary of the Interior shall issue an environmental impact statement, consistent with the requirements of the National Environmental Policy Act of 1969, concerning continued or renewed withdrawal of some or all of the lands withdrawn by section 2(a) of this Act and any other public lands in Nevada which as of December 1, 1994, have been withdrawn for use by the Air Force.

(2) No later than January 1, 1992, the Secretary of the Navy and the Secretary of the Interior shall issue an environmental impact statement, consistent with the requirements of the National Environmental Policy Act of 1969, concerning continued or renewed withdrawal of some or all of the lands withdrawn by section 2(b) of this Act and any other public lands in Nevada which as of December 1, 1991, have been withdrawn for use by the Navy.

(c) SCOPE OF STATEMENTS.—(1) Each of the statements required by subsection (b) shall include (but not be limited to) an analysis and an evaluation, with respect to the activities of the military department concerned, of the effects on public health and safety throughout Nevada of—

(A) the operation of aircraft at subsonic and supersonic speeds;

(B) the use of aerial and other gunnery, rockets, and missiles; and

(C) the uses specified in section 2.

(2) Each of the military departments concerned shall, in the statements required by subsection (b), evaluate the cumulative effects of continued or renewed withdrawal for military purposes of the military department concerned of some or all of the lands withdrawn by section 2 on the environment and population of Nevada. This evaluation shall be done in conjunction with—

(A) an analysis of the actual and proposed withdrawal for military and related purposes of other lands in Nevada, including but not limited to—

(i) lands withdrawn by section 2(a) of this Act and by Public Law 94-485 (98 Stat. 2261);

(ii) lands withdrawn by Public Law Orders 275, 788, 898, and 2635;

(iii) lands proposed for withdrawal as specified in the draft environmental impact statement for the proposed master land withdrawal, Naval Air Station Fallon, Nevada; and

(iv) lands withdrawn or being considered for withdrawal for use by the Department of Energy; and

(B) an analysis of cumulative impacts on public and private property in Nevada and on the fish and wildlife, cultural, historic, scientific, recreational, wilderness, and other values of the public lands of Nevada resulting from military and defense related uses of the lands withdrawn by section 2 and the other

lands described in this subparagraph (A) of this paragraph, including but not limited to impacts resulting from—

(i) operation of aircraft at subsonic and supersonic speeds;

(ii) the use of aerial and other gunnery, rocketry, and missiles; and

(iii) the uses specified in section 2.

(3) The analysis required under subparagraphs (A) and (B) of paragraph (2) shall not be considered a major Federal action for purposes of section 102(2)(C) of the National Environmental Policy Act of 1969 (43 U.S.C. 4332).

(4) The statement required by subsection (b)(2) of this section shall include an analysis and an evaluation of possible measures to mitigate the cumulative effect of the withdrawal of public lands in Nevada for military and defense-related purposes, and of use of the airspaces over public lands in Nevada for such purposes, on—

(A) opportunities for outdoor recreation, mineral exploration and development, and agriculture in Nevada; and

(B) people and property in Nevada and the fish and wildlife, cultural, historic, scientific, wilderness, and other resources and values of the public lands in Nevada.

(5) Measures to be analyzed and evaluated pursuant to paragraph (4) shall include (but shall not be limited to)—

(A) possible acquisition by the United States (through exchange or otherwise) of lands in Nevada suitable for outdoor recreational uses;

(B) possible increased use for mining, mineral leasing, agricultural, or recreational purposes of public lands in Nevada withdrawn for military and other defense-related purposes;

(C) possible reductions of or limitations on military and other defense-related uses of airspaces over public lands in Nevada; and

(D) possible overall reduction of the total area of lands in Nevada withdrawn for military and related purposes through increased cooperation between military departments to permit use of lands withdrawn for use by one military department by one or more other military departments.

(d) DEADLINES.—(1) If the environmental impact statement described in paragraph (1) of subsection (b)(1) is not issued on or before the date specified in such paragraph, the withdrawal made by subsection (a) of section 2 shall terminate 30 days after the date specified in such paragraph.

(2) If the environmental impact statement described in paragraph (2) of subsection (b) is not issued on or before the date specified in such paragraph, the withdrawal made by section 2(b) shall terminate 30 days after the date specified in such paragraph.

(e) PRIOR STUDIES.—In preparing the environmental impact statement described in paragraph (2) of subsection (b), the Secretary of the Navy and the Secretary of the Interior shall, to the maximum extent feasible, utilize and incorporate information and analyses prepared in connection with statements previously prepared pursuant to the National Environmental Policy Act of 1969 (including but not limited to such statements prepared by the Department of the Air Force, the Department of the Navy, the Department of Energy, and the Department of the Interior), as such Secretaries find relevant to the matters analyzed, evaluated, or otherwise treated in the statement described in such paragraph.

(f) EXTENSIONS OR RENEWALS.—The withdrawals established by this Act may not be extended or renewed except by Act of Congress.

SEC. 6. RELINQUISHMENT AND DECONTAMINATION.

(a) NOTICE.—If, at any time prior to the termination of the withdrawals established by this Act, the Secretary of Defense concludes that there is no military need for all or any of the lands withdrawn and reserved by this Act, or if, during the period of withdrawal and reservation, the Secretary of Defense decides to relinquish all or any of such lands, the Secretary of Defense shall transmit a notice of intention to relinquish to the Secretary of the Interior.

(b) CONTAMINATION.—(1) Before transmitting a notice of intention to relinquish pursuant to subsection (a), the Secretary of Defense, acting through the military department concerned, shall prepare a written determination concerning whether and to what extent the lands that are to be relinquished are contaminated with explosive, toxic, or other hazardous materials.

(2) A copy of such determination shall be transmitted with the notice of intention to relinquish.

(3) Copies of both the notice of intention to relinquish and the determination concerning the contaminated state of the lands shall be published in the Federal Register by the Secretary of the Interior.

(c) DECONTAMINATION.—If any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is contaminated, and the Secretary of the Interior, in consultation with the Secretary of the military department concerned, determines that decontamination is practicable and economically feasible (taking into consideration the potential future use and value of the land) and that upon decontamination, the land could be opened to operation of some or all of the public land laws, including the mining laws, the Secretary of the military department concerned shall decontaminate the land to the extent that funds are appropriated for such purpose.

(d) ALTERNATIVES.—If the Secretary of the Interior, after consultation with the Secretary of the military department concerned, concludes that decontamination of any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is not practicable or economically feasible, or that the land cannot be decontaminated sufficiently to be opened to operation to some or all of the public land laws, or if Congress does not appropriate a sufficient amount of funds for the decontamination of the land, the Secretary of the Interior shall not be required to accept the land proposed for relinquishment.

(e) REVOCATION AUTHORITY.—Notwithstanding any other provision of this Act, the Secretary of the Interior, upon deciding that is in the public interest to agree to a relinquishment pursuant to this section and to accept full jurisdiction over any or all of the lands withdrawn and reserved by this Act which were the subject of a notice of intention to relinquish, may revoke the withdrawal and reservation established by this Act, as it applies to such lands. If the Secretary of the Interior decides to revoke the withdrawal, such Secretary shall publish in the Federal Register an appropriate order which shall terminate the withdrawal and reservation, constitute official acceptance of full jurisdiction over the lands by such Secretary, and state the date upon which the lands will be opened to the operation of some or all of the public land laws, including the mining law.

SEC. 7. MILITARY WITHDRAWAL REPORTS.

(a) TO CONGRESS.—(1) No later than 180 days after the date of enactment of this Act, the Secretary of Defense and the Secretary of the Interior shall prepare and transmit to the Committees on Interior and Insular Affairs and Armed Services of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate a report on present and potential withdrawals of public lands in Nevada for military purposes and on other lands in Nevada which are used for such purpsoes, with an explanation of the manner in which such uses on such other lands are permitted. Such report shall identify—

(A) the public lands in Nevada which as of the date of the report (or the date of revisions thereof pursuant to subsection (c)) are withdrawn for military purposes, and the date of termination of each such withdrawal; and

(B) the public lands in Nevada which as of such date are the subject of a request for withdrawal for military purposes, together with the status of each such request and (with respect to each such request involving 5,000 acres or more of public lands) the date on which such request is expected to be transmitted for consideration by the Congress.

(2) On the date that the report described in paragraph (1) of this subsection is transmitted, the Secretary of Defense shall transmit to the Congress a report identifying existing and proposed restrictions, established for defense purposes, on use of airspace over lands in Nevada by nonmilitary aircraft.

(b) TO GOVERNOR.—The Secretary of Defense and the Secretary of the Interior shall provide a copy of the reports described in subsection (a) to the Governor of Nevada on the date that such reports are transmitted to the specified Committees of the Congress, and the Secretary of the Interior shall maintain copies of the reports in the offices of the Bureau of Land Management in Reno and Las Vegas, Nevada, for public inspection.

(c) REVISIONS.—(1) From time to time (but at least every two years after the date of the transmittal of the reports to the specified Committees of the Congress), the Secretary of Defense and the Secretary of the Interior shall—

(A) revise the reports described in subsection (a) of this section;

(B) provide such revised reports to the Committees of the Congress specified in subsection (a) and to the Governor of Nevada; and

(C) make such revised reports available for public inspection in Reno and Las Vegas, Nevada.

(2) Before transmitting each of the revised reports to the Committees and the Governor of Nevada, the Secretaries shall give appropriate notice concerning the preparation of such revised reports and shall consult with the public and with agencies of

the State of Nevada concerning the information to be included in such revised reports.

SEC. 8. DELEGABILITY.

(a) DEFENSE.—The functions of the Secretary of Defense or of a military department under this Act may be delegated.

(b) INTERIOR.—The functions of the Secretary of the Interior under this Act may be delegated, except that an order described in section 6(e) may be approved and signed only by the Secretary of the Interior, the Under Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

Amend the title so as to read:

An Act to withdraw and reserve certain public lands in Nevada for use by the Departments of the Air Force and the Navy, and for other purposes.

PURPOSE

The purpose of H.R. 4351, as amended, is to authorize the withdrawal from operation of public land laws approximately 2,966,576 acres of federal lands in Nevada for use by the Departments of the Navy and the Air Force and would define the responsibilities of the Departments of the Interior, the Navy and the Air Force with respect to the lands involved and would provide for congressional consideration of renewal of extensions of these withdrawals after their termination.

LEGISLATIVE BACKGROUND

H.R. 4351 was jointed referred to the Committee on Interior and Insular Affairs and the Committee on Armed Services.

After consideration of testimony, the Committee on Interior and Insular Affairs amended the bill and on June 18, 1986, favorably reported H.R. 4351, as amended.

On July 16, 1986, the Subcommittee on Military Installations and Facilities received testimony on the legislation from Members of Congress, representatives of the Department of Defense and outside witnesses. After review of the amendment in the nature of a substitute to H.R. 4351, which was adopted by the Committee on Interior and Insular Affairs, the subcommittee voted 11–0 to favorably report the bill, as amended, making technical and conforming amendments. On July 23, 1986, the Committee on Armed Services approved H.R. 4351 as reported from the subcommittee by a voice vote.

EXPLANATION OF COMMITTEE ACTION

The committee adopted an amendment in the nature of a substitute as reported by the Committee on Interior and Insular Affairs. However, the committee did not make technical and conforming changes to the legislation that clarified certain provisions and that made stylistic changes in the form of the bill.

SECTION-BY-SECTION ANALYSIS

The committee concurs with the explanations of each section of the bill as stated in Part I of the report on this legislation. However, Section 5, the committee substituted the word "analysis" for

"discussion". The Committee on Armed Services intends to retain the same distinction between "analysis" and "evaluation" as is made between "discussion" and "evaluation" in Part I of the report.

COST OF THE LEGISLATION

The committee concurs with the estimate of the Congressional Budget Office as printed in Part I of the report of this legislation.

INFLATION IMPACT STATEMENT

Pursuant to clause 2(1)(4) of Rule XI of the Rules of the House of Representatives, the committee finds that enactment of H.R. 4351, as amended, will not have an inflationary impact on the national economy.

OVERSIGHT FINDINGS

With reference to clause 2(1)(3)(D) of Rule XI of the Rules of the House of Representatives, the committee has not received a report from the Committee on Government Operations pertaining to this subject.

With reference to clause 2(b)(1) of Rule X of the Rules of the House of Representatives, the Subcommittee on Military Installations and Facilities held hearings on H.R. 4351, as amended, on July 16, 1986.

DEPARTMENTAL DATA

No departmental reports were received on H.R. 4351.

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